

§ 159-96. Limitation on extraterritorial operation of enterprises financed by revenue bonds.

(a) Each utility or public service enterprise listed in G.S. 159-81(3), if financed wholly or partially by revenue bonds issued under this Article, shall be owned or operated by the municipality for its own use and for the use of public and private consumers residing within its corporate limits or, in the case of a joint agency or undertaking established pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, for the use of the municipalities that established the joint agency or undertaking and for the use of the public and private consumers residing within their corporate limits. A utility or public service enterprise financed wholly or partially by revenue bonds, when operated primarily for the municipality's own use and for users within its corporate limits or, in the case of two or more municipalities participating in a joint agency or undertaking, when operated primarily for the use of the municipalities that established the joint agency or undertaking, may be operated incidentally for users outside the corporate limits of either the issuing unit or a participating municipality. Provided, however, that revenue bonds may be issued for the purpose of financing in whole or in part mass transit systems, aeronautical facilities, marine facilities and systems, systems or facilities for the generation, production, transmission, or distribution of gas (natural, artificial, or mixed), facilities and equipment for the collection, treatment or disposal of solid waste, notwithstanding that such systems, facilities or equipment may be operated for users outside the corporate limits of a municipality that is an issuing unit where the municipality finds that the systems, facilities, or equipment so financed would benefit the municipality or, in the case of two or more municipalities participating in a joint agency or undertaking, where the municipalities that are the issuing units find that the systems, facilities, or equipment so financed would benefit the municipalities that established the joint agency or undertaking.

Revenue bonds may not be issued for the purpose of financing in whole or in part systems or facilities for the transmission or distribution of gas (natural, artificial, or mixed) to users outside the corporate limits of a municipality to whom service is available or will be available within a reasonable time from a local distribution natural gas utility pursuant to a certificate of public convenience and necessity issued by the North Carolina Utilities Commission. A finding by the governing body of a municipality that is an issuing unit that the systems or facilities to be provided by the financing will not provide service to users to whom such service is available or will be available within a reasonable time from a local distribution natural gas utility shall be conclusive upon (i) the expiration of a 45 day period following the making of such finding, (ii) the mailing by the municipality of a copy of such notice within five days after the making of such finding to any local distribution company certificated to provide service to the area in which the facilities are to be located, and (iii) the absence of a written objection to such finding being mailed by any such certificated local distribution company to the municipality by not later than five days prior to the end of such 45 day period, all such mailings to be properly given or made if sent by United States registered mail, return receipt requested, postage prepaid. Time shall be computed pursuant to G.S. 1A-1, Rule 6(a).

(b) A revenue bond project financed wholly or partially by revenue bonds of the State may be located either within or without the State and, when operated primarily for the State's own use and for users within the State, may be operated incidentally for users outside the State.

(c) Repealed by Session Laws 2001-474, s. 39, effective November 29, 2001.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section and G.S. 160A-312, municipalities may acquire sewage collection and disposal systems and water supply and distribution systems located within and without the corporate limits of such municipalities and finance such acquisition with revenue bonds. Further, municipalities may own, maintain and operate such acquired systems, enlarge and improve such acquired systems

and finance the enlargement and improvement of such acquired systems with revenue bonds. This subsection applies only to acquisitions by municipalities financed by revenue bonds during the calendar year ending December 31, 1989.

(e) In the case of a Turnpike Project of the North Carolina Turnpike Authority, the Turnpike Project may be located anywhere in the State the Authority is authorized to maintain a Turnpike Project. (1971, c. 780, s. 1; 1973, c. 1325; 1983, c. 554, s. 16; c. 795, s. 5; 1989, c. 168, s. 44; c. 263; 1991, c. 511, s. 1; 2001-414, s. 50; 2001-474, s. 39; 2002-133, s. 8.)